

Court No. - 28

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 94 of 2023

Applicant :- Soni Shukla

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko And Another

Counsel for Applicant :- Ram Sumiran Yadav, Karunesh Singh, Vijay Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Heard Sri Karunesh Singh, learned counsel for the applicant as well as Sri B. N. Nishad, learned AGA for State and perused the record.

Notice to opposite party no.2 is hereby dispensed with.

Instant application has been filed with prayer to transfer the case No.3650/2019, U/s 494 IPC Police Station- Aliganj, District- Lucknow, pending in the court of Learned Special Chief Judicial Magistrate (Customs), Lucknow to District- Ambedkar Nagar as three cases i.e. Criminal Case No.1588/2021, FIR No.40/2019, u/s 498A, 323, 504, 506 IPC & 3/4 D.P. Act, Police Station- Hanswar, District- Ambedkar Nagar; Case No.257/2019, u/s 125 CrPC, pending before the learned Principal Judge, Family Court, Ambedkar Nagar; and Criminal Misc. Case No.15342/2022, u/s 12 D. V. Act, pending before the learned Civil Judge (J. D.)/ F.T.C.-I, Ambedkar Nagar.

Learned counsel for the applicant submits that the applicant is a woman and there is no one to flank her during the journey from Ambedkar Nagar to Lucknow for pursuing the case and submitted that there are three other cases, arising out of matrimonial dispute, i.e., Criminal Case No.1588/2021, FIR No.40/2019, u/s 498A, 323, 504, 506 IPC & 3/4 D.P. Act, Police Station- Hanswar, District- Ambedkar Nagar; Case No.257/2019, u/s 125 CrPC, pending before the learned Principal Judge, Family Court, Ambedkar Nagar; and Criminal Misc. Case No.15342/2022, u/s 12 D. V. Act, pending before the learned Civil Judge (J. D.)/ F.T.C.-I, Ambedkar Nagar, and those are running before the Civil Court at Ambedkar Nagar. He further submits that even the opposite party no.2 is also the resident of District Ambedkar Nagar, therefore, the matter may be transferred to the District Court, Ambedkar Nagar from District Court, Lucknow.

In support of his contention, he has placed reliance on the judgment rendered in **Sumita Singh vs. Kumar Sanjay and Another, AIR 2002 SC 396** and has referred to para 3 of the above-said judgment and submitted that the case of the applicant is squarely covered with the judgment above-said. Paragraph 3 of the above-said judgment is quoted hereinunder:

"It is the husband's suit against the wife. It is the wife's convenience that, therefore, must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute."

Referring the aforesaid, he submitted that it has been held by the Apex Court that if there is dispute between the husband and wife, then the convenience of wife shall be taken care of in the light of facts and circumstances of the case. He submits that the case of the present applicant is squarely covered with the ratio of the judgment above-said, therefore, the matter may be transferred to the District Court, Ambedkar Nagar, from District Court, Lucknow.

Learned counsel for the State could not dispute the aforesaid contentions.

In view of the aforesaid submissions, it transpires that as per the assertions made in para 12, 13 and 14 of the application, there are three cases running, arising out of matrimonial dispute, before the District Court, Ambedkar Nagar and the applicant is a woman and she has stated that there is no one to flank her to come to Lucknow or stay with her and therefore there is threat to life and thus this matter may be transferred to District Court, Ambedkar Nagar.

It is a trite law that so far as the matrimonial dispute is concerned, the convenience of the woman shall be taken care of and the present case squarely covered with the ratio of the judgment of the Apex Court, cited above, therefore, the matter i.e. Complaint Case No.3650/2019 is transferred from District Court, Lucknow to District Court Ambedkar Nagar.

District Judge, Lucknow is directed to transfer the record of Case No.3650/2019 to District Court, Ambedkar Nagar. The court concerned at Ambedkar Nagar, shall proceed thereafter, thereby informing the other side.

With the aforesaid observations, the instant application is hereby **disposed of**.

Order Date :- 17.10.2023
Manoj K.